

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

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WRIT PETITION No.9052 of 1999

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Dated:11.04.2007

Between:

D.Krishnam Raju S/o Chinnaswamy Raju and another.

..... PETITIONERS

AND

District Collector, Chittoor District, Chittoor
and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

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WRIT PETITION No.9052 of 1999

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ORDER:

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This writ petition is filed seeking a declaration that the proceedings dated 11.02.1999 issued by the first respondent-District Collector, Chittoor, are arbitrary, illegal and without jurisdiction, and for a consequential declaration that the respondents have no power or jurisdiction to interfere with the possession and enjoyment of the petitioners in respect of the land admeasuring Acs.2.24 cents, Acs.4.50 cents and Acs.1.57 cents in Sy.Nos.164/2, 165/8A and 165/8B, respectively, situated at Thondambattu village, Varadaiahpalem Mandal, Chittoor District.

It is the case of the petitioners that the first petitioner has been in possession and enjoyment of an extent of Acs.4.50 cents in Sy.No.165/8B, and the second petitioner has been in possession and enjoyment of an extent of Acs.2.24 cents in Sy.No.164/2 and Acs.1.50 cents in Sy.No.165/8A situated at Ambikapuram village, hamlet of

Thondambattu village. They also alleged to have raised mango garden in a part of the said lands and also cultivating the remaining portion of the same. Subsequently, on their request, the then Tahildar of Satyavedu assigned the said lands in favour of the petitioners after due enquiry. Aggrieved by the said assignment, one Sri Ramachandra Naidu filed an appeal before the Revenue Divisional Officer, Chandragiri, and the same was allowed. Questioning the same, petitioners filed a revision before the Government, and the same was dismissed subsequently. Challenging the dismissal of the revision, petitioners filed W.P.No.18290 of 1987 before this Court, which was also dismissed, and against the same, petitioners filed W.A.No.1684 of 1988. A Division Bench of this Court, while disposing the said Writ Appeal, directed the respondents to inspect the lands in question and if there is any mango garden, the assignment granted in favour of the petitioners to that extent may not be cancelled. Petitioners also statedly filed civil suits, being O.S.Nos.119 and 120 of 1989, respectively, for declaration of title and also for perpetual injunction, and the same were decreed on 13.04.1994. The respondents have not filed any appeals against the decrees and judgments, and therefore, the said decrees and judgments have become final, and the petitioners alleged to have been in possession and enjoyment of the said lands without any interruption. While so, the first respondent issued proceedings dated 11.02.1999 ordering resumption of the lands in question, and also for assigning the same to third parties. Aggrieved thereby, this writ petition is filed.

Despite service of notice, the respondents have not chosen to file any counter.

Heard the learned counsel for the petitioners and the learned Government Pleader for Assignment.

Evidently, petitioners filed O.S.Nos.119 and 120 of 1989 seeking declaration of their title and also perpetual injunction. In the said suits, the respondents, who were arrayed as defendants, have brought to the

notice of the said Court about the transactions that have taken place i.e, issuance of pattas in favour of the petitioners, cancellation of the said pattas by the Joint Collector, dismissal of the revision, orders passed by this Court in W.P.No.18290 of 1987. The Civil Court, after going through the entire material on record, decreed the suits as prayed for, and the respondents have not chosen to file any appeal against the decrees and judgments in the said suits, and thus they have become final. Without challenging the said decrees and judgments, in my considered view, the first respondent ought not to have issued the impugned proceedings dated 11.02.1999. Hence, this Court has no hesitation to come to the conclusion that the proceedings dated 11.02.1999 impugned in this writ petition are wholly without jurisdiction.

Accordingly, the writ petition is allowed and the proceedings dated 11.02.1999 issued by the first respondent are hereby set aside. There shall be no order as to costs.

11.04.2007

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